



CRM-M-25753-2023 and other connected matters

-1-

211 (5 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision:- 27.11.2024

(1)

CRM-M-25753-2023

Municipal Corporation, B.K. Chowk, Faridabad and others
....Petitioners

Versus

State of Haryana and another
....Respondents

(2)

CRM-M-25971-2023

Municipal Corporation, B.K. Chowk, Faridabad and others
....Petitioners

Versus

State of Haryana and another
....Respondents

(3)

CRM-M-25978-2023

Municipal Corporation, B.K. Chowk, Faridabad and others
....Petitioners

Versus

State of Haryana and another
....Respondents

(4)

CRM-M-26014-2023

Municipal Corporation, B.K. Chowk, Faridabad and others
....Petitioners

Versus

State of Haryana and another
....Respondents



CRM-M-25753-2023 and other connected matters

-2-

(5)

CRM-M-62645-2023

Municipal Corporation, B.K. Chowk, Faridabad and others

....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Piyush Bansal, Advocate
for the petitioners.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Pawan Girdhar, Advocate with
Ms. Manju Goyal, Advocate
for respondent No. 2.

* * * *

AMARJOT BHATTI, J.

1. All aforementioned petitions, with the consent of learned counsel for parties are taken up together as matter in controversy involved in all cases is the same.

2. Petitioners Municipal Corporation, Faridabad through its Commissioner Vijay Dhaka, Executive Engineer, Nawal Singh, Assistant Engineer and Manoj Kumar, Junior Engineer (in CRM-M Nos. 25753, 25971, 25978, 26014 and 62645 of 2023) alongwith petitioners namely Thakur Lal Sharma, then Chief Engineer, Birender Kumar Kardam, Chief Engineer and Deepak Yadav (Regular) J.E. (in CRM-M-62645-2023) have filed five aforementioned petitions under Section 482 Cr.P.C. seeking quashing of criminal complaint(s) and summoning order(s) i.e.

(i) Complaint No. 23 of 2020, under Section 43 read with Section 47 for violation of Section 24 of The Water (Prevention and

**CRM-M-25753-2023 and other connected matters****-3-**

Control of Pollution) Act, 1974 (hereinafter to be referred as “Act”) (Annexure P-2) and summoning order dated 20.10.2022 (Annexure P-3), in CRM-M-25753-2023.

(ii) Complaint No. 10 of 2019, under Section 43 read with Section 44 for violation of Section 25 of the Act (Annexure P-3) and summoning order dated 27.02.2020 (Annexure P-4), in CRM-M-25971-2023.

(iii) Complaint No. 11 of 2019, under Section 43 read with Section 44 for violation of Section 24 and 25 of the Act (Annexure P-3) and summoning order dated 27.02.2020 (Annexure P-4), in CRM-M-25978-2023.

(iv) Complaint No. 22 of 2020, under Section 43 read with Section 47 for violation of Section 24 of the Act (Annexure P-2) and summoning order dated 20.10.2022 (Annexure P-3), in CRM-M-26014-2023.

(v) Complaint No. 61 of 2022, under Section 43, 44 read with Section 47 for violation of Section 24 and 25 of the Act (Annexure P-6) and summoning order dated 11.01.2023 (Annexure P-7), in CRM-M-62645-2023.

and further prayer for quashing all subsequent proceedings emanating therefrom.

BRIEF FACTS IN CRM-M-25753-2023

3. As per the facts narrated in complaint Annexure P-2 filed by Haryana State Pollution Control Board through Sachin Kumar, A.E.E. against M/s Municipal Corporation, B.K. Chowk, Faridabad and others, 45 MLD STP at village Mirzapur was installed by Public Health Engineering Department of Government of Haryana, which was later on transferred for operation and maintenance to Municipal Corporation, Faridabad-accused No. 1. As per notification No. 14/79/2018-4C-I dated 20.09.2018, issued by Urban Local Bodies Department, Government of Haryana, Chief Engineer, Municipal Corporation being Head of Office/Department was responsible

**CRM-M-25753-2023 and other connected matters****-4-**

for regulating operation and maintenance of work within his jurisdiction for the purpose of Section 48 of the Act. Other accused being Executive Engineer, Assistant Engineer and Junior Engineer were all deputed by accused No. 1 to look after the operation and maintenance of STP involved in present case. Smt. Akansha Tanwar, A.E.E. on 01.08.2019 inspected 45 MLD STP at village Mirzapur and sample of effluent from inlet and outlet of STP was collected in the presence of Sh. Sushil Kumar, after service of notice of intention to have sample for analysis as per procedure prescribed under the Act. Sample was sent for analysis and as per Analysis Report No. 214 dated 12.08.2019, parameters were found exceeding the prescribed limit laid down by complainant board. Show cause notice for prosecution was issued to accused vide Letter No. 2082 dated 20.08.2019 but no reply was submitted. Ultimately, complaint Annexure P-2 was filed. In aforesaid complaint, summoning order dated 20.10.2022, Annexure P-3 is passed by Presiding Officer-cum-Judicial Magistrate First Class, Special Environment Court, Faridabad.

BRIEF FACTS IN CRM-M-25971-2023

4. As per the facts narrated in complaint Annexure P-3 filed by Haryana State Pollution Control Board through Neha Saharan, A.E.E. against M/s Municipal Corporation, B.K. Chowk, Faridabad and others, 20 MLD STP at village Badshahpur, District Faridabad was installed by accused No. 1 M/s Municipal Corporation, Faridabad to treat the sewerage generated in the Municipal Area of Faridabad City and accused No. 2 to 5 were responsible Officers and Incharge of day to day affairs of running and control of treatment plant. All accused did not comply with the law and

**CRM-M-25753-2023 and other connected matters****-5-**

started discharge of untreated sewage in Budiya Nallah, thus, polluted underground water. Team of Officers was constituted by Head Office vide Letter No. 6320-6321 dated 18.03.2019 for inspection and sampling of STP installed at Badshahpur, Faridabad. Team inspected the site and prepared spot inspection report at the spot and collected sample for analysis from inlet and outlet of STP in the presence of Sh. Nawal Singh, Assistant Engineer after service of notice of intention to have sample for analysis as per procedure prescribed under the Act. Sample was sent for analysis and as per Analysis Report No. 365 dated 07.03.2019, parameters were found exceeding with general standards adopted by complainant board. As per notification No. 14/79/2018-4C-I dated 20.09.2018, all accused are responsible for the operation of STP. Show cause notice for closure under Section 33-A and prosecution under Section 43 and 44 were issued to accused vide Letter No. 9640-41 dated 12.03.2019 and reply to said notice was filed by accused No. 1 vide their memo No. MCF/EE/2019/09 dated 27.03.2019. Ultimately, complaint Annexure P-3 was filed. In aforesaid complaint, summoning order dated 27.02.2020, Annexure P-4 is passed by Presiding Officer-cum-Judicial Magistrate First Class, Special Environment Court, Faridabad.

BRIEF FACTS IN CRM-M-25978-2023

5. As per the facts narrated in complaint Annexure P-3 filed by Haryana State Pollution Control Board through Neha Saharan, A.E.E. against M/s Municipal Corporation, B.K. Chowk, Faridabad and others, 45 MLD STP at village Badshahpur, District Faridabad was installed by accused No. 1 M/s Municipal Corporation, Faridabad and outsourced to

**CRM-M-25753-2023 and other connected matters****-6-**

accused No. 6 of which accused No. 7 and 8 are responsible persons, looking after day to day affairs of accused No. 6 and accused No. 2 to 5 are responsible Engineers of Municipal Corporation. As per notification No. 14/79/2018-4C-I dated 20.09.2018, issued by Urban Local Bodies Department, Government of Haryana, Chief Engineer, Municipal Corporation being Head of Office/Department was responsible for regulating operation and maintenance of work within his jurisdiction for the purpose of Section 48 of the Act. Team of Officers was constituted by Head Office vide Letter No. 6320-6321 dated 18.03.2019 for inspection and sampling of STP installed at Badshahpur, Faridabad. On 02.03.2019, team inspected the site and prepared spot inspection report and collected sample for analysis from inlet and outlet of STP in the presence of Sh. Nawal Singh, Assistant Engineer, after service of notice of intention to have sample for analysis as per procedure prescribed under the Act. Sample was sent for analysis and as per Analysis Report No. 366 dated 07.03.2019, parameters were found exceeding with general standards adopted by complainant board. Accused unit was discharging sewerage, found exceeding the prescribed limit in Budiya Nallah of District Faridabad which directly meets river Yamuna causing pollution of surface and underground water in violation of Section 24 of the Act. Show cause notice for closure under Section 33-A and prosecution under Section 43 and 44 were issued to accused vide Letter No. 9638-39 dated 12.03.2019 and reply to said notice was filed by accused No. 1 vide their memo No. MCF/EE/2019/09 dated 27.03.2019. Ultimately, complaint Annexure P-3 was filed. In aforesaid complaint, summoning order dated 27.02.2020,

**CRM-M-25753-2023 and other connected matters****-7-**

Annexure P-4 is passed by Presiding Officer-cum-Judicial Magistrate First Class, Special Environment Court, Faridabad.

BRIEF FACTS IN CRM-M-26014-2023

6. As per the facts narrated in complaint Annexure P-2 filed by Haryana State Pollution Control Board through Sachin Kumar, A.E.E. against M/s Municipal Corporation, B.K. Chowk, Faridabad and others, 50 MLD STP at village Partapgarh was installed by Public Health Engineering Department of Government of Haryana, which was later on transferred for operation and maintenance to Municipal Corporation, Faridabad-accused No. 1. As per notification No. 14/79/2018-4C-I dated 20.09.2018, issued by Urban Local Bodies Department, Government of Haryana, Chief Engineer, Municipal Corporation being Head of Office/Department was responsible for regulating operation and maintenance of work within his jurisdiction for the purpose of Section 48 of the Act. Other accused being Executive Engineer, Assistant Engineer and Junior Engineer were all deputed by accused No. 1 to look after the operation and maintenance of STP involved in present case. Smt. Akansha Tanwar, A.E.E. on 01.08.2019 inspected 50 MLD STP at village Partapgarh and sample of effluent from inlet and outlet of STP was collected in the presence of Sh. Sushil Kumar after service of notice of intention to have sample for analysis as per procedure prescribed under the Act. Sample was sent for analysis and as per Analysis Report No. 213 dated 12.08.2019, parameters were found exceeding the prescribed limit laid down by complainant board. Show cause notice for prosecution was issued to accused vide Letter No. 2079 dated 20.08.2019 but no reply was submitted. Ultimately, complaint Annexure P-2 was filed.

**CRM-M-25753-2023 and other connected matters****-8-**

In aforesaid complaint, summoning order dated 20.10.2022, Annexure P-3 is passed by Presiding Officer-cum-Judicial Magistrate First Class, Special Environment Court, Faridabad.

BRIEF FACTS IN CRM-M-62645-2023

7. As per the facts narrated in complaint Annexure P-6 filed by Haryana State Pollution Control Board through Abhijeet Singh Tanwar, A.E.E. against M/s Municipal Corporation, B.K. Chowk, Faridabad and others, 45 MLD STP at village Mirzapur was installed by Public Health Engineering Department of Government of Haryana, which was later on transferred for operation and maintenance to Municipal Corporation, Faridabad-accused No. 1. As per notification No. 14/79/2018-4C-I dated 20.09.2018, issued by Urban Local Bodies Department, Government of Haryana, Chief Engineer, Municipal Corporation being Head of Office/Department was responsible for regulating operation and maintenance of work within his jurisdiction for the purpose of Section 48 of the Act. Other accused being Executive Engineer, Assistant Engineer and Junior Engineer were all deputed by accused No. 1 to look after the operation and maintenance of STP involved in present case. From 22.01.2020 to 10.11.2020, STP has been inspected seven times and every time during inspection sample of effluent from outlet has been collected and sent for analysis and according to Analysis Reports, sample was not confirming to standard prescribed by Board. It is also necessary to mention here that accused No. 2 to 7 are Officers of accused No. 1 and they were posted to look after the operation and work of STP involved in present matter on behalf of accused No. 1. On 22.01.2020, Sachin Kumar, the then

**CRM-M-25753-2023 and other connected matters****-9-**

A.E.E. inspected 45 MLD STP at village Mirzapur and sample of effluent from inlet and outlet of STP was collected in the presence of Sh. Manoj Kumar Sharma, Junior Engineer after service of notice of intention to have sample for analysis as per procedure prescribed under the Act. Sample was sent for analysis and as per Analysis Report No. 643-644 dated 29.01.2020, parameters were found exceeding the standards laid down by complainant board. Again on 12.05.2020, 22.06.2020, 24.07.2020, 18.08.2020, 22.09.2020 and 10.11.2020, said Sachin Kumar, the then A.E.E. inspected STP and samples of effluent from inlet and outlet of STP were collected but same were found exceeding the standards laid down by complainant board. Show cause notices for prosecution were issued to accused vide Letters No. 1442 dated 01.07.2020, 3036 dated 07.08.2020, 3206 dated 25.08.2020, 4410 dated 30.09.2020 and 5168 dated 18.11.2020. Ultimately, complaint Annexure P-6 was filed. In aforesaid complaint, summoning order dated 11.01.2023, Annexure P-7 is passed by Presiding Officer-cum-Judicial Magistrate First Class, Special Environment Court, Faridabad.

8. Learned counsel for petitioners raised common arguments that summoning order passed by Presiding Officer-cum-Judicial Magistrate First Class, Special Environment Court, Faridabad is sheer abuse of process of law and same is not sustainable. Impugned order is challenged on the ground that it does not disclose commission of any offence on the part of Municipal Commissioner, Municipal Corporation, Faridabad-petitioner No.1. As per notification issued by Urban Local Bodies Department, Government of Haryana, Chief Engineer in case of Municipal Corporation or in his absence, other senior-most Engineer as Head of Department is

**CRM-M-25753-2023 and other connected matters****-10-**

responsible under the Rules, Regulations and By-laws framed under the Act. Apart from this, there was no willful negligence on the part of petitioner No. 1 nor same is elaborated in complaint as well as impugned summoning order. It does not disclose that discharge of effluent was within the active knowledge of petitioner No. 1 and other petitioners. On this point, learned counsel for petitioners have relied upon the provisions of Section 24 of the Act. It is further pointed out that impugned summoning order(s) are passed in aforesaid complaints in violation of Section 49(1)(b) of the Act. As per provisions, no Court shall take cognizance of any offence under the Act if notice of less than 60 days, in the manner prescribed, of the alleged offence and intention to make a complaint is issued. This aspect of the case has not been considered by learned Magistrate. Learned counsel for petitioners referred to the provisions of Sections 48 and 49 of the Act. In fact, summoning order(s) passed in aforesaid complaints are sheer abuse of process of Court. Petitioners have been writing letters to the Regional Officer of Haryana State Pollution Control Board time and again, stating that Mirzapur (45 MLD) STP commissioned by Public Health Engineering Department in the year 1988 was handed over to Municipal Corporation, Faridabad in the year 2018 in a dilapidated condition and with the passage of time, due to large number of industrial units in the area and discharge of waste water into domestic sewer network laid down by Corporation resulted in increase in the levels of influent parameters of said STP. STP in question, based on UASB technology was not effected in treating sewage having influent characteristics inferior to the range set by CPCB/HSPCB. Said letter dated

**CRM-M-25753-2023 and other connected matters****-11-**

10.12.2021, Annexure P-5, was written to Regional Office. There was no violation on the part of petitioners. Therefore, aforesaid complaints and summoning orders passed thereon are liable to be quashed.

9. On the other hand, learned counsel representing respondent No. 2 filed reply taking common stand that bare perusal of contents of complaints, it is clear that proper procedure was followed as per the provisions of the Act, while drawing samples and same were sent to laboratory for analysis. Since samples tested in laboratory were found exceeding parameters of prescribed limit, show cause notices were issued, and thereafter complaints were filed. All relevant documents were annexed with complaints and thereafter well-reasoned summoning orders were passed by Presiding Officer-cum-Judicial Magistrate First Class, Special Environment Court, Faridabad. Stand taken by petitioners is without any basis. Complaints have been filed in consonance with notification as well as provisions, detailed under the Act. Therefore, all petitions filed by petitioners deserve dismissal.

10. I have considered the arguments and have gone through the record in the aforesaid cases carefully. Complaints have been filed by Haryana State Pollution Control Board through its authorized person against M/s Municipal Corporation, Faridabad and others in view of notification No. 14/79/2018-4C-I dated 20.09.2018. It is not disputed that MLD STP (Sewage Treatment Plant) was under the control of Municipal Corporation for operation and maintenance. In view of notification, Chief Engineer, Municipal Corporation and in his absence, senior-most Engineer were deputed for the operation and maintenance of STP. Section 24 of the

**CRM-M-25753-2023 and other connected matters****-12-**

Act prohibits use of streams or wells for the disposal of polluting matter etc., and Section 43 of the Act deals with the penalty for contravention of the provisions of Section 24. Section 47 deals with offences committed by companies, whereas Section 48 deals with offences committed by Government Departments. Section 49 of the Act deals with cognizance of offences, which runs as under :-

“49. Cognizance of offences.—

(1) No court shall take cognizance of any offence under this Act except on a complaint made by—

(a) a Board or any officer authorised in this behalf by it; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Board or officer authorised as aforesaid,

and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(2) Where a complaint has been made under clause (b) of subsection (1), the Board shall, on demand by such person, make available the relevant reports in its possession to that person: Provided that the Board may refuse to make any such report available to such person if the same is, in its opinion, against the public interest.

(3) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for any Judicial Magistrate of the first class or for any Metropolitan Magistrate to pass a sentence of imprisonment for a term exceeding two years or of fine exceeding two thousand rupees on any person convicted of an offence punishable under this Act.”

In the light of aforesaid provisions as detailed in the facts narrated in each complaint, samples of effluents were drawn by the authorized person as per rules and the report received from lab analyst was

**CRM-M-25753-2023 and other connected matters****-13-**

found to be exceeding prescribed limits. As a result, show cause notices were given and complaints were filed as referred above. Petitioners, being responsible for operation and maintenance of said STP, at this stage cannot take the stand that there was no willful negligence on their part or that discharge of effluents was not with the active knowledge of petitioner No. 1 or other petitioners. Petitioners cannot escape from their duty assigned to them in their official capacity. So far as their defence is concerned, it can be raised during course of trial. Petitioners also relied upon one letter written by Executive Engineer, Municipal Corporation Faridabad to the Regional Officer, Ballabgarh Region, Haryana State Pollution Control Board, Faridabad dated 10.12.2021, explaining the difficulties faced by Municipal Corporation, Faridabad while operating MLD STP. Firstly, aforesaid letter dated 10.12.2021, Annexure P-5 in CRM-M-25753-2023, pertains to a subsequent period whereas complaints were already filed except complaint No. 61 of 2022. Points raised in said letter are, in fact, matter of defence, which can be raised during trial.

In the light of aforesaid factual position, I do not find a fit case for quashing of complaints and summoning orders passed thereon, as referred above and petitions i.e. **CRM-M Nos. 25753, 25971, 25978, 26014 and 62645 of 2023** filed by petitioners are accordingly dismissed.

11. Pending miscellaneous application(s), if any, in all cases shall stands disposed of accordingly.

27.11.2024

*lalit***(AMARJOT BHATTI)**
JUDGEWhether speaking/reasoned:
Whether reportable:Yes/No
Yes/No